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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/941,602	09/30/97	MIZE	42765

W R GRACE & CO.-COMM  
PO BOX 464  
DUNCAN SC 29334

IM62/0721

EXAMINER
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NOLAN, S

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/21/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/941,602

Applicant(s)

MIZE et al

Examiner

Sandra Nolan

Group Art Unit

1772

☒ Responsive to communication(s) filed on Apr 19, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-35 is/are pending in the application.

Of the above, claim(s) 8-17, 19, and 21 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7, 18, 20, and 22-35 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-35 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1772

## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction was required in the March 30, 1999 Office Action (Paper No. 4). Applicants' election, deemed an election without traverse, of Claims 1-7, 18, and 20 in their response of April 19, 1999 (Paper No. 6) is acknowledged.

### ***Information Disclosure Statement***

2. The information disclosure statement received on April 19, 1999 (Paper No. 8) has been considered. A copy of the PTO-FB-A820, initialed by the Examiner, is enclosed.

### ***Claim Objections***

3. Claims 18 and 22 are objected to because of the following informalities: Claim 18 recites "a length of the bag"[Emphasis added.], which is not proper idiomatic English. Claim 22 recites "a bag"[Emphasis added.], which is grammatically incorrect. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. Claims 24, 25 and 28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The following phrases were not in the application as originally filed and, therefore, constitute new matter: "3 to 6 mils" (claim 24); and "the bag has only one patch adhered thereto" (claim 25). Correction is required.

Art Unit: 1772

***Claim Rejections - 35 USC § 102***

5. <sup>103</sup> Claims 1-7, 20, 22-25 and 31-35 are rejected under 35 U.S.C. 102(e) <sup>103(a)</sup> as being anticipated <sup>by Brady et al</sup> by Brady et al (WO 96/00688).

Brady et al show plastic bags having protective patches, which patches can be one-piece protective layers over a sealed bag (see Figure 12). The various features of applicants' claims are disclosed in Brady et al as follows:

- A. Seam in bag, not in patch film - Figures 11 and 12.
- B. Both bag and patch films being heat-shrinkable and biaxially oriented - page 26, lines 18-20.
- C. Multilayer bags having functional layers - page 7, lines 3-30.
- D. Identities of polymers in the bag and patch films - page 3 (patch) and pages 7-8 (bag).
- E. Patch's width is 20-190% or 101-200% of bag's width - page 19, lines 8-11 and Figure 12.
- F. Thickness of bag - page 3, line 20.
- G. Thickness of patch - page 3, line 18.
- H. Bag has only one patch on it - page 4, line 6.

***Claim Rejections - 35 USC § 103***

6. Claims 18, 20, and 26-35 are rejected under 35 USC 103 as unpatentable over Brady et al in view of Compton (US 5,846,620).

Brady et al is discussed above. While the reference shows seams, it does not teach the backseamed seals of claims 18 and 20.

Art Unit: 1772

Compton shows the use of backseaming (col. 4, lines 1-2) in plastic packaging for products that have a "heavy risk of ... puncture" (col. 1, lines 9-10).

It would have been obvious to one of ordinary skill in the art at the time that the invention was made to employ the puncture resistant backseamed seals of Compton, in making the patch-covered bags of Brady et al, since they are to be used to package bone-containing meat products, which products could puncture the packaging.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra M. Nolan, whose telephone number is (703) 308-9545. She can normally be reached on Monday through Thursday from 7:00 am to 4:00 pm. She can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ellis P. Robinson, can be reached on (703) 308-2364. The fax phone number for the Art Unit is (703) 305-5408. The telephone number for the receptionist is (703) 308-0661.

SMN/smn  
July 14, 1999  
08941602.2

RENA L. DYE  
PRIMARY EXAMINER

TC 1700

*Key to Argue*  
*Expt as re Brady in it's entirety.*  
*Concursing only 2 figs is not*  
*appropriate. The figs are in bag, not in pot.*  
*Fig 2 of Brady is not to show*  
*is what you're showing.*  
*Compt's back seaming is a feature.*  
*Back seaming for patches*  
*in plastic film over*  
*puncture resistant. (col. 1, ll 9-10),*  
*TH*